



Federal Communications Commission
Washington, D.C. 20554

December 8, 2009

DA 09-2560

Kim Carroll
Contracts Business Manager
Thales Communications, Inc.
22605 Gateway Center Drive
Clarksburg, MD 20871

RE: TMR8092 HF SSB Transceiver Request for Waiver

Dear Ms. Carroll:

We have before us your letter, on behalf of Thales Communications, Inc. (Thales), requesting a waiver of the Commission's Rules to permit equipment authorization for Thales's product, the TMR8092 HF SSB Transceiver (TMR8092).¹ Specifically, Thales requests waivers of Sections 87.131 and 87.173 of the Commission's Rules² because the TMR8092 supports modulation types and frequencies that are not authorized under Part 87. For the reasons set forth below, we deny the waiver request.

The TMR8092 currently is used only by Federal Government agencies, so FCC equipment authorization has not been required.³ You state that a commercial aircraft manufacturer has approached Thales to procure a TMR8092 for use at an aircraft test facility to communicate with aircraft using analog USB voice communications (emission J3E), and that the aircraft manufacturer requested that Thales pursue FCC equipment authorization for the device.⁴

Section 87.173(b) lists specific frequencies and bands that are authorized for Part 87 operations.⁵ In contrast, the TMR8092 tunes over the entire 1.5-29.999999 MHz band, to support Federal Government usage.⁶ Section 87.131 specifies the authorized emissions for HF flight test land stations (including J3E).⁷ The TMR8092 supports many additional modulation types.⁸ You indicate that the commercial aircraft

¹ Letter dated Sept. 29, 2009 from Kim Carroll, Contracts Business Manager, Thales to Federal Communications Commission (Request).

² 47 C.F.R. §§ 87.131, 87.173.

³ Request at 1; *see* 47 C.F.R. § 2.807(d).

⁴ *See* Request at 1.

⁵ *See* 47 C.F.R. § 87.173(b).

⁶ *See* Request at 1.

⁷ *See* 47 C.F.R. § 87.131. Specifically, H2B, J3E, J7D, and J9W.

⁸ *See* Request at 1-2.

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manufacturer does not intend to use these non-Part 87 frequencies and modulation types, but modification of the firmware to block these frequencies and modulation types would be prohibitively expensive.⁹ Consequently, Thales seeks a waiver to permit FCC equipment authorization for the TMR8092.

Section 1.925 of the Commission's Rules provides that we may grant a waiver if it is shown that (a) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and grant of the requested waiver would be in the public interest; or (b) in light of unique or unusual circumstances, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.¹⁰ Thales has not justified a waiver under this standard. It has not explained why the commercial aircraft manufacturer cannot use available equipment that complies with Part 87. Nor has Thales explained how it can guarantee that the commercial aircraft manufacturer (or any subsequent owner of the equipment) would use only authorized frequencies and modulation types.¹¹ That Thales would incur some unspecified expense to bring the TMR8092 into compliance with the Commission's rules does not justify a waiver.¹² We therefore deny the waiver request.

Accordingly, IT IS ORDERED that the waiver request of Thales Communications, Inc., dated September 29, 2009, IS DENIED.

This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Scot Stone
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau

⁹ *See id.* at 2.

¹⁰ 47 C.F.R. § 1.925(b)(3); *see also* WAIT Radio v FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

¹¹ *See* Telex Communications, Inc., *Order on Reconsideration*, 22 FCC Rcd 1250, 1252 ¶ 6 (WTB MD 2007).

¹² *See* Domtar Industries, Inc., *Order*, 22 FCC Rcd 574, 576 ¶ 7 (WTB MD 2007).